

[Additional Counsel on Signature Page]

LUDMILA GULKAROV, JANINE  
TORRENCE, KELLY MCKEON, and JOSH  
CRAWFORD, Individually and on Behalf of  
All Others Similarly Situated,

V.

Defendants.

## RESPONSE TO DEFENDANTS' OBJECTION TO CONSOLIDATION STIPULATION

1 Plaintiff submits this short response to clarify the record.

2 First, Plaintiffs' counsel conferred with Defendant Plum PBC's counsel, Dale J. Giali, prior  
3 to filing the stipulation both telephonically and by e-mail. Plaintiff's counsel provided the draft  
4 stipulation to Mr. Giali after confirming that Defendant did not oppose consolidation. Declaration  
5 of Rebecca A. Peterson, ¶¶2-5. In response to the draft stipulation, defense counsel stated that it  
6 "does not take a position (or may oppose)" the additional items in the stipulation that go beyond  
7 consolidation and filing a single consolidated complaint. *Id.* There was no later confirmation that  
8 Defendant decided it would oppose (instead of taking no position) the other issues in the draft  
9 stipulation. *Id.* Further, Defense counsel provided clear instruction as to Defendant's position, and  
10 Plaintiffs properly represented Defendant's position in the filed stipulation.<sup>1</sup> Plaintiffs' counsel  
11 also conferred with defense counsel after the objection to the stipulation was filed and confirmed  
12 that both parties agree proper notice was given on what relief would be sought in the filed  
13 stipulation.  
14

15 Second, Defendant maintains that its headquarters are in New Jersey, but that is disputed.  
16 At the time when the actions were filed, Defendant's filing with the Secretary of State of California  
17 listed Emeryville, California as its principal office. Declaration of Rebecca A. Peterson, Ex. 2.  
18 Moreover, consistent with its California principal place of business, the Terms of Use on  
19 Defendant's website at the time of filing had both choice of law and choice of venue clauses  
20 specifying California. *Id.*, Ex. 3. Since the filing of these lawsuits, Defendant has removed these  
21 provisions from its website.  
22  
23  
24  
25

26 <sup>1</sup> Defendant's position that it supports a single consolidated complaint requires an appointment of  
27 interim lead counsel, and therefore, Plaintiffs included timing for that in the stipulation. This was  
28 communicated to defense counsel during the meet and confer process.

1 Dated: April 7, 2021

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